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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named Applicant: Cromer)	Art Unit: 2152
)	
Serial No.: 09/855,624)	Examiner: Refai
)	
Filed: May 14, 2001)	RPS919980030US2
)	
For: AUTOMATIC RECONFIGURATION SYSTEM FOR)	November 6, 2005
CHANGE IN MANAGEMENT)	750 B STREET, Suite 3120
)	San Diego, CA 92101
)	

REPLY BRIEF

Commissioner of Patents and Trademarks

Dear Sir:

This Reply brief responds to the Examiner's Answer dated October 18, 2005.

The Answer includes a querulous complaint that the tone of the Brief was discourteous. There is nothing in Rule 1.1 prohibiting a vigorously worded Brief.

It is evidently the conferees' position that because the present appellant has disclosed TCP/IP, and that because packets are used in TCP/IP, the skilled artisan would recognize that Aziz uses packets even though Aziz admittedly "does not use the word packet". But it doesn't matter what Appellant discloses, it matters what the asserted prior art discloses. Appellant's patent application is not part of the prior art.

Next, two dictionary references are mentioned for the first time to support the allegation that Aziz "inherently" uses packets. The dictionary references amount to introducing new documents into evidence without the Technology Center Director's consent and thus cannot be accorded any weight, 69 Fed. Reg. 155 (August 2004), page 49979.

1201-S.RPL

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Continuing, the Answer alleges that because Aziz incorporates a reference not in evidence that has "TCP/IP" in the title, that means that Aziz uses packets. How this is so, the conferees do not explain. The point remains that to support a finding of "inherency", it must be shown that Aziz *necessarily* uses something - packets - that he nowhere even mentions, a showing seemingly impossible to make unless one believes that no communication of any kind is ever possible without using packets.

The Answer next refers in two successive paragraphs to the background of Aziz to rebut Appellant's point that Aziz does not teach that the packet contains the server's IP address. The relied-upon discussion in Aziz is background, and does not indicate that it is to be used with the remaining relied-upon elements of Aziz. Moreover, the Answer makes unsupported allegations about what the skilled artisan "would know" about message headers. Absent evidence of the relied-upon knowledge in the art, the arguments cannot be accorded any weight.

Next, regarding the inconvenient fact that Aziz et al. fails to disclose matching a packet with a client, no response has been presented by the conferees.

Continuing, evidently sensing the possibility that Aziz says nothing about updating a configuration file using a packet, much less using a specific piece of information in the packet, much less still based on the explicitly recited test outcome of Claim 10, the conferees now switch ground, alleging that this is "mere intended use" and given no patentable weight because "the recitation occurs in the preamble". It is true that the preamble of Claim 10 recites a method "for providing update configuration data...including the IP destination address of the server". It is equally true that the last element of Claim 10 requires "updating the storage device of the client with the included internet protocol destination address of the server included in the packet", thus making it somewhat difficult to imagine a clearer tying-in of a preamble to a claim body.

1201-3.RP1.

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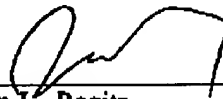
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Notwithstanding, the conferees next point to col. 2, lines 50-67 as a teaching that configuration files are updated (trying to slip in that the updating is done by "packets", which as shown above is putting words into Aziz' mouth). Aziz indeed teaches that when a remote host name changes, entirely new files can be sent to clients, or the changes can be provided separately for manual entry - but not that a configuration file is updated using a packet (recall that updates in Aziz are done manually, with entirely new files being provided automatically using computer data transmission), much less using a specific piece of information in the packet, much less still based on the explicitly-recited test outcome of Claim 10.

Respectfully submitted,



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